

REMARKS

This responds to the Restriction Requirement, dated September 19, 2008. In response to the Restriction Requirement, Applicant elects Group I, claims 10, 12, 14, 16 and 17 for examination. New claim 20 depends from claim 10 and reads on the elected invention.

This election is made with traverse as follows.

The Examiner states that the inventions of Group I and Group II are unrelated.

As noted in the Action, inventions are unrelated if it can be shown that they are not disclosed as usable together and they have different designs, modes of operation and effects.

It is the Examiner's position that the inventions have different modes of operations and different effects. The Examiner states that the claims of Group I are drawn to a gel composition which can be used topically, wherein the invention of the claims of Group II is drawn to a composition containing food. The Examiner also asserts that there would be serious burden on the Examiner if restriction were not required for the reasons set forth in paragraph 3 of the Action.

Applicants respectfully traverse the restriction requirement on the basis that the Examiner has not met his burden of establishing that the inventions of Group I and Group II are unrelated in view of the following.

First, the claimed invention of both Groups I and II is a method of increasing plasma volume. Therefore the Examiner's assertion that the claims of Group I are drawn to a composition and the claims of Group II are drawn to a composition containing food is incorrect.

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Also, in the method of the claims of Group II, a food containing a gel composition is employed and not "a composition containing food" as indicated by the Examiner.

Further, the Examiner has not provided a reason as to why he believes that the inventions are not disclosed as being capable of use together.

Moreover, the inventions of Group I and II both have the same effect of increasing plasma volume and the same mode of operation based on administration.

Even further, the search would not be an undue burden on the Examiner since the claims of both groups recite the same gel composition.

In view of the above, Applicants submit that the claims of the present application should be examined together.

Reconsideration and withdrawal of the restriction requirement is respectfully requested.

Respectfully submitted,


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